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Honorable Frederick P. Corbit  
Chapter 11

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON

In Re:

No. 09-06194-FPC11

LLS AMERICA, LLC, et al.

TRUSTEE'S OMNIBUS REPLY IN  
SUPPORT OF MOTION FOR  
EXTENSION OF LIQUIDATING  
TRUST'S TERM

Debtors.<sup>1</sup>

Bruce Kriegman (the "Trustee"), the trustee for the liquidating trust  
established pursuant to the *Chapter 11 Trustee's and Official Committee of*

<sup>1</sup> Please refer to the Order Granting Trustee's Motion for Substantive Consolidation (ECF No. 771) for the list of debtor-entities.

TRUSTEE'S OMNIBUS REPLY IN SUPPORT OF  
MOTION FOR EXTENSION OF LIQUIDATING  
TRUST'S TERM - 1  
{S2493136; 2 }



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1 *Unsecured Creditors' Second Modified Plan of Liquidation* (ECF. No 1364,  
2 hereafter the "Plan") submits this Omnibus Reply to the objections of Alex Mirrow  
3 (ECF No. 2281), Frederick M. Reynolds (ECF No. 2284), Susi DeCrow, as trustee  
4 of the Elisabeth G. Eidinger Trust (referred to herein as the "EGET") (ECF No.  
5 2279), and William Culpepper (ECF No. 2285) (collectively, the "Objections") to  
6 the Motion for Extension of Liquidating Trust's Term (ECF No. 2273) (the  
7 "Extension Motion"). This Reply is based upon the Extension Motion, the Trustee's  
8 Declaration in support of the Extension Motion filed therewith (the "Motion  
9 Declaration"), the Trustee's Declaration in support of this Reply filed herewith (the  
10 "Reply Declaration"), and the dockets of the cases referred to therein.

15 **I. THE TRUST'S TERM MUST BE EXTENDED FOR THE TRUST TO**  
16 **FULFILL ITS PURPOSE.**

17 The only issue on the Extension Motion before the Court is whether the term  
18 of the Trust should be extended. Article IV(B)(1)(e) of the Plan and Article X of the  
19 Trust Agreement (ECF No. 1429) provide for and anticipate extensions of the Trust  
20 term. The Court also expressly anticipated potential further extensions of the Trust  
21 term in the November 13, 2017 order granting the Trustee's first motion for  
22 extension of the term. ECF No. 2022-1 (the "2017 Extension Order"). The 2017  
23 Extension Order provides that the Trustee may "seek additional extensions of the  
24 term of the Liquidating Trust as may be necessary." 2017 Extension Order at ¶4.  
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TRUSTEE'S OMNIBUS REPLY IN SUPPORT OF  
MOTION FOR EXTENSION OF LIQUIDATING  
TRUST'S TERM - 2  
{S2493136; 2 }



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1 In advance of a November 19, 2019 status conference scheduled pursuant to  
2 the 2017 Extension Order, the Trustee filed a report at ECF No. 2192 (the “2019  
3 Status Report”). After that status conference, the Court entered a minute entry  
4 stating that the Trust may seek additional time as necessary pursuant to the 2017  
5 Extension Order. ECF No. 2195.  
6

7  
8 Among the key reasons for extending the Trust term, as set forth in the  
9 Extension Motion, is that the Trust is in the midst of legal proceedings and related  
10 activities for enforcing and collecting judgments. *See* Reply Declaration at ¶ 6. The  
11 Trust has a present obligation or need to pursue those proceedings and activities to  
12 an appropriate conclusion. *Id.*  
13  
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15 Judgments are the sole assets of the Trust, and the Trust’s mandate under the  
16 Plan (nearly unanimously approved by creditors, including Mr. Reynolds, Mr.  
17 Culpepper, and the EGET)<sup>2</sup> is to pursue the necessary steps for attempting to realize  
18 the value thereof. *See* Reply Declaration at ¶ 7. The practical reality of judgments  
19 is that judgment debtors seldom volunteer to pay the judgments against them. *Id.*  
20 Judgment enforcement and collection commonly require asset investigation and  
21 legal action which takes time, especially where a judgment debtor refuses to  
22 cooperate or conceals assets. *Id.*  
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28 <sup>2</sup> *See* ECF No. 1365-1 at pp. 3, 4, and 8 (amended chapter 11 plan balloting report).

1 The Trustee cannot dictate and does not have full control of the pace or time  
2 for such activities and legal actions. *See* Reply Declaration at ¶ 8. In highly  
3 contested collections such as the Trust has repeatedly faced (and continues to face),  
4 it is not unusual for the process to involve appellate proceedings.<sup>3</sup> *Id.* Such  
5 proceedings add additional layers of time and expense. *Id.* Moreover, the time  
6 required for judgment collections is even greater where, as in the present case, the  
7 judgment collection and activities occur in the legal systems of different states and  
8 different countries. *Id.* At least about half of the Trust's judgments are against  
9 judgment debtors who reside in Canada. *Id.* Accordingly, the Trust's efforts have  
10 and continue to entail significant commitments of time and resources. *Id.*

15 In rendering its ruling at the November 8, 2017 hearing on the first motion to  
16 extend the Trust term, the Court ruled in relevant part as follows:  
17

18 The first point that I want to make before I do rule is that  
19 I wanted to make the objecting parties clear on what's  
20 before me again. The attack on the Trustee, or a dismissal  
21 of the Trustee, that's not before me. The issue before me  
22 is whether the trust should continue, not whether we  
23 should remove the Trustee.... In looking at what's gone  
24 on here, a lot of the objections are, to some extent,  
25 collateral attacks on the Trustee's ongoing collection  
26 actions. The collection actions are proceeding in  
27 accordance with the Plan, and those issues have been  
28 decided. The Trustee can proceed to do that. The real

<sup>3</sup> In general, Ponzi scheme litigation and collections of claw-back judgments are complex and difficult, leading to increased legal fees and costs.

1           question, then, is: Should the trust be extended in order to  
2           allow the consummation of the reorganization? Again,  
3           this reorganization is proceeding pursuant to a confirmed  
4           Plan of reorganization. I am going to grant the Trustee's  
5           motion to continue the trust.

6 Transcript of November 8, 2017 Hearing (ECF No. 2113) at p. 40-41 (emphasis  
7 added).

8           The Trust made its first distribution, which was for \$3,453,224.61, in 2014.  
9           *See* ECF No. 1907 (Liquidating Trustee's 2014 Annual Report). The Trust made its  
10          next distribution (\$1,000,000.00) in 2018. *See* ECF No. 2164 (Liquidating Trustee's  
11          2018 Annual Report). As documented on pages 2-5 of the 2019 Status Report,  
12          during the approximate four-year interval between the first and second distributions,  
13          the Trust had to overcome vigorous defensive maneuvers and pursue and/or respond  
14          to multiple appeals with respect to several large judgments. *See* Reply Declaration  
15          at ¶ 9. For example, the Trust succeeded in obtaining reversal of the lower British  
16          Columbia court decision in favor of David Dill (which is quoted extensively by Mr.  
17          Mirrow).<sup>4</sup> 2019 Status Report at p. 3, ¶1. Mr. Dill appealed the British Columbia  
18          Court of Appeals decision in favor of the Trust to the Supreme Court of Canada. *Id.*  
19          His parents, Robert and Lilian Dill, followed a similar course. *Id.*, ¶2. With the  
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27          <sup>4</sup> The Court should flatly reject Mr. Mirrow's reliance upon and use of a reversed lower court  
28          opinion to attempt to cast aspersions on the Trustee.



1 passage of time, the Trust has substantially prevailed in the above-referenced  
2 appeals, and all other appeals in which it was required to engage, but the time of  
3 appeals necessarily delayed the Trust's ability to identify and/or execute against  
4 assets to satisfy the underlying judgments.<sup>5</sup> See Reply Declaration at ¶ 9. Yet  
5 another example of the challenges the Trust faces in judgment collection is the  
6 pending proceedings and activities related to Mr. Mirrow himself. Mr. Mirrow, his  
7 family, and his attorney have initiated, or caused to be initiated, separate legal  
8 proceedings in U.S. District Courts in the Southern District of New York and the  
9 Southern District of Texas to thwart the Trust's efforts to obtain relevant records  
10 regarding asset targets. See Extension Motion at p. 5, fn 3; Motion Declaration at p.  
11 6, ¶¶ 17-18.

12 On top of the foregoing facts about judgments/collections, as set forth in the  
13 Extension Motion, the pace of Trust activities was slowed by a once in a lifetime  
14 event — the global COVID-19 outbreak. See Reply Declaration at ¶ 10. The  
15 pandemic had a pervasive effect and posed yet another separate and significant  
16 challenge to the Trust's progress in collecting judgments. *Id.* At various intervals,  
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27 <sup>5</sup> The Trust collected payment in full satisfaction of the judgments against David Dill and the senior  
28 Dills. As to the senior Dills the Trust also collected payment of a contempt award and special costs. See Reply Declaration at ¶ 9.



1 COVID shut down courts or otherwise delayed proceedings in the U.S. and Canadian  
2 judicial systems. *Id.*

3  
4 A proximate result of the extended time for collection activities and legal  
5 proceedings is significant legal fees and costs. *See* Reply Declaration at ¶ 11. The  
6 Trust has no outside funding and is entirely self-funded and, as such, relies upon the  
7 collection of judgments to fund all its activities and litigation. *Id.* The Trust files  
8 regular quarterly reports with the Court which show the amounts paid to  
9 professionals. *Id.* The Trust follows the procedure/mechanism established under  
10 the Plan (Article IV, B(1)(d)) and Trust Agreement (Article VI, 4.4) for  
11 compensating all professionals. *Id.*

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15 The Objections, which are not supported by any affidavits or declarations  
16 attesting to the truthfulness of the allegations therein,<sup>6</sup> fail to identify any facts or  
17 advance any credible argument demonstrating that the Trust could accomplish what  
18 it has thus far faster or more economically. Nothing in the Objections articulate any  
19 reasonable basis for not extending the Trust's term.  
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22 None of the Objections claim or argue that the beneficiaries who received  
23 distributions totaling in excess of \$5 million have not realized a substantial benefit  
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27 <sup>6</sup> Because of the lack of such affidavits/declaration, they should be treated strictly as arguments  
28 and not recitations of any facts.



1 from the Trust which has, in the case of those who lost the most money from the  
2 Ponzi scheme, paid approximately a 15% dividend. Furthermore, as discussed in  
3 more detail below, the Objections make bald conclusory claims and/or rehash  
4 arguments about matters that were previously raised and heard by this Court and  
5 through its rulings determined as having no merit.<sup>7</sup>

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8 The Trustee has established beyond serious question the reasons and necessity  
9 for extending the Trust term. Nothing stated or advanced in the Objections prove  
10 otherwise and, accordingly, the Court must overrule them.

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12 **II. THE CONCLUSORY STATEMENTS IN THE OBJECTIONS ARE**  
13 **UNSUPPORTED WITH ANY CREDIBLE EVIDENCE AND**  
14 **REGURGITATE PREVIOUS ARGUMENTS THAT HAVE NO MERIT.**

15 Objection of the Elisabeth G. Eidinger Trust.

16  
17 The EGET is a Tranche B Investor under the Plan. Prior to the bankruptcy it  
18 had recovered 68.89% of its investment. *See* Reply Declaration at ¶ 13. As a  
19 Tranche B investor, the EGET has received distributions from the Trust as follows:  
20 \$895.10 (2014), \$271.42 (2018), and \$267.52 (2020). *Id.* The gravamen of EGET's  
21 objection is the conclusory allegation that "The only ones who will benefit from this  
22 Extension of Liquidating Trust's Term are the Liquidating Trust Attorneys" and that  
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28 <sup>7</sup> *See* Transcript of February 28, 2018 Hearing (ECF No. 2114); Transcript of April 11, 2018  
Hearing (ECF No. 2115).



1 “we are getting scammed again.”

2 The Objection fails to identify any basis in the record for this unfounded and  
3 inflammatory allegation. As noted in the Extension Motion and earlier herein  
4 Tranche C investors have received a material benefit from distributions of the Trust.  
5 Without the action of the Trust and its attorneys, none of those distributions would  
6 have occurred. The Trust has filed quarterly reports from its inception which, as  
7 noted earlier herein, identify the fees/costs paid to professionals. The fees/costs  
8 shown in those reports encompass a substantial portion of the fees/costs for obtaining  
9 the judgments under collection and not just the Trust’s collection activities and  
10 proceedings. The Trust has followed the mechanism in the Plan and Trust  
11 Agreement for payment of professionals and the EGET makes no assertion  
12 otherwise. The EGET objection is thus without merit and must be overruled.  
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18 Objection of Frederick M. Reynolds<sup>8</sup>

19 Mr. Reynolds is a Tranche A Investor under the Plan or in other words among  
20 the luckiest of net losers. He recovered 83.33% of his investment prior to the  
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24 <sup>8</sup> In his objection Mr. Reynolds implies that he was somehow intentionally not given notice of the  
25 Extension Motion. Maintaining a current accurate address with the Court is a creditor’s  
26 responsibility – not the responsibility of the Trust. Mr. Reynolds provided a change of address  
27 which is in the Court docket (ECF No. 1864) showing his address as 8930 State Rd 84, Unit 300  
28 in Davie, Florida. The Trustee is not aware of any further change of address for Mr. Reynolds.  
The Trust did not intentionally fail to give him notice and, in any event, it appears he was aware  
enough of the Extension Motion that he filed an objection.

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TRUST’S TERM - 9  
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1 bankruptcy filing. *See* Reply Declaration at ¶ 14. Like all Tranche A Investors (i.e.,  
2 investors recovering at least 75% of their investment prior to bankruptcy), Mr.  
3 Reynolds has not received any distributions. *See id.*

4  
5 The substance of Mr. Reynolds's Objection is similar to the objection he filed  
6 to the first extension in 2017 (ECF No. 2003) and, in part, to the current Objection  
7 of Mr. Mirrow. On information and belief, Mr. Reynolds has a longstanding  
8 business or personal relationship with Mr. Mirrow (Reply Declaration at ¶ 16) and,  
9 like Mr. Mirrow, he makes wild irresponsible, unsubstantiated allegations casting  
10 aspersions on the Trustee including the false claim that the Trustee admitted to "lying  
11 to the courts." Most of Mr. Reynolds' Objection relates to two baseless stale claims  
12 that (a) somehow the Debtors' business was not a Ponzi scheme; and (b) that the  
13 closure of the Debtors' payday loan business could have been avoided. Neither of  
14 those matters are germane or relevant to the determination of the Extension Motion.  
15 In any event, this Court as well as the U.S. District Court determined upon extensive  
16 evidence long ago that the Debtors' business constituted a Ponzi scheme. The  
17 closure of the business occurred after a lengthy investigation which included  
18 scrutiny of the viability of a sale. The time for contesting business closure is long  
19 passed. As the Court previously noted on the record regarding substantially similar  
20 arguments at a prior hearing: "This was a very complicated case. The pre-petition  
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TRUSTEE'S OMNIBUS REPLY IN SUPPORT OF  
MOTION FOR EXTENSION OF LIQUIDATING  
TRUST'S TERM - 10  
{S2493136; 2 }



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1 management of this Debtor was fraught with substantial questionable behaviors.”  
2 *See* Transcript of February 28, 2018 Hearing (ECF No. 2114) at p. 34.  
3

4 The path the Trust has followed in pursuing collection of judgments and the  
5 activities related thereto are prescribed by the Plan and in furtherance of the purposes  
6 established therein. Mr. Reynold’s claims in his objection have no basis in fact or  
7 law and thus his Objection must be overruled.  
8

9 Objection of William Culpepper.  
10

11 William Culpepper is a Tranche B Investor under the Plan. Prior to the  
12 bankruptcy he had recovered 73.8% of his investment. *See* Reply Declaration at ¶  
13 15. As a Tranche B investor, Mr. Culpepper has received distributions from the Trust  
14 as follows: \$1,055.07 (2014), \$319.93 (2018), and \$315.33 (2020). *Id.* Mr.  
15 Culpepper is a business associate of Mr. Mirrow who the Trust’s Colorado counsel  
16 deposed as part of the collection proceedings against Mr. Mirrow. *Id.* at ¶ 16.  
17

18 Mr. Culpepper’s Objection is in substance essentially the same as the  
19 Objections filed by the EGET or Mr. Reynolds. For the reasons set forth above  
20 regarding those objections, Mr. Culpepper’s objection also fails and is thus without  
21 merit.  
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1           Objection of Alex Mirrow

2           As a threshold matter, Mr. Mirrow beyond serious question lacks standing to  
3  
4 object to the Extension Motion. He does not hold any allowed claim under the Plan  
5 and, moreover, is currently engaged in extended litigation with the Trust which is  
6 seeking to collect a judgment for in excess of \$1.3 million. Accordingly, the Court  
7 should not entertain the Objection.  
8

9           In large part the unfounded claims and accusations in Mr. Mirrow's Objection  
10 relate to the aforementioned litigation over which three U.S. District Courts in three  
11 other jurisdictions are currently presiding. Mr. Mirrow's objection is a bald attempt  
12 to involve this Court in adjudicating those claims and accusations that pertain to the  
13 matters at issue in the other proceedings when all such matters belong before and are  
14 committed to determination of the other courts in those other proceedings. The  
15 Trustee declines to accept Mr. Mirrow's implicit invitation to engage with him on  
16 those matters and reject his improper attempt to litigate them with this Court.<sup>9</sup>  
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21           Although not in writing, the Court has already heard the baseless claims and  
22 arguments in the balance of Mr. Mirrow's objection when he appeared at a hearing  
23 on April 11, 2018 and made an oral presentation to the Court. *See* Transcript of April  
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27 <sup>9</sup> The Trustee categorically denies Mr. Mirrow's allegations and characterizations in his  
28 Objection regarding the U.S. District Court proceedings pending in other jurisdictions.



1 11, 2018 Hearing (ECF No. 2115). Those baseless claims and allegations consist of  
2 a litany of unsupported and largely untruthful statements that boil down to his  
3 displeasure that the Trust is pursuing payment of its judgment against him and that  
4 appear to serve no other purpose than to malign and attack the Trustee. The Trust's  
5 judgment is based upon the Findings of Fact and Conclusions of Law of the U.S.  
6 District Court for the Eastern District of Washington (Hon. Rosanna Malouf  
7 Peterson) which found with respect to Mr. Mirrow that he was intimately involved  
8 in the promotion of the Ponzi scheme and the solicitation of the victims thereof:  
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12 Mr. Mirrow's significant involvement with Debtor  
13 provided him with sufficient notice of its fraudulent  
14 nature. Mr. Mirrow was active in recruiting other investors  
15 for Debtor and was credited with having brought in at least  
16 52 new investors and \$18 million. Ex. 2 at 96, 180.  
17 Plaintiff submitted evidence that Mr. Mirrow received up  
18 to \$53,000 per month in commissions. Ex. 2 at 113; Ex. 37  
19 at 137. Mr. Mirrow also worked with Debtor to create and  
20 edit solicitation and general letters.

21 *See Kriegman v. 0720878, BC LTD., et al.*, Case No. CV-11-362-RMP, at ECF No.  
22 219 at p. 16 (D. Wash. Dec. 30, 2013).

23 In his written objection, Mr. Mirrow attempts to use the reversed lower British  
24 Columbia court decision discussed earlier herein with regard to David Dill as a  
25 cudgel, falsely claiming not so subtlety that it proves the Trustee acted improperly.  
26 Mr. Mirrow used this tactic previously in his earlier oral presentation. After the  
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1 following colloquy between the Court and Mr. Mirrow, the Court rejected those  
2 arguments:  
3

4 THE COURT: Wait, no, Mr. Mirrow. Okay, I'm going to  
5 let Ms. Ripley respond to these allegations in the Dill case.  
6 But that's one of hundreds of cases. And, you know, in the  
7 over all scheme of things, what the Trustee has done and  
8 the monies that the Trustee has recovered in a lot of cases,  
9 and I don't see the law or the connection that something  
10 that happened in one case means that I terminate the trust.

11 MR. MIRROW: Well, Your Honor, it doesn't say -- it's not  
12 limited to one case or a hundred cases. It's one single  
13 incident of fraud --

14 THE COURT: Well, no, show me -- no, sir. You stated as  
15 a fact, or as a conclusion of law, that something that  
16 happened in the Dill case requires that I do something in  
17 this case. I mean, you didn't say that, but that's -- is that  
18 what you're saying, is that something that happened in the  
19 Dill case means that I should terminate the trust here?

20 MR. MIRROW: Well, I'm not suggesting that the trust be  
21 terminated, sir, Your Honor, excuse me.

22 THE COURT: Okay, so something that the attorney or the  
23 Trustee did in the Dill case should disqualify the Trustee  
24 from serving further in any way?

25 Transcript of April 11, 2018 Hearing (ECF No. 2115) at pp. 25-26.

26 This Court has already allowed Mr. Mirrow his day in Court with this totally  
27 specious and baseless line of argument and it must roundly reject it again now. Mr.  
28 Mirrow's Objection is immaterial to the determination of the Extension Motion and,



1 in any event, deserves no consideration and/or credence. As such, Mr. Mirrow's  
2 Objection must be overruled.  
3

### 4 **III. CONCLUSION.**

5 For the reasons stated in the Extension Motion and herein, the Court should  
6  
7 overrule the Objections and enter the Trust's proposed order extending the term of  
8 the Trust to November 27, 2027.

9 DATED this 25<sup>th</sup> day of October, 2022.  
10

11 WITHERSPOON KELLEY  
12

13 By: /s/ Shelley N. Ripley  
14 Shelley N. Ripley, WSBA No. 28901  
15 Attorneys for Bruce P. Kriegman,  
16 Liquidating Trustee

17 BENESCH FRIEDLANDER COPLAN &  
18 ARONOFF LLP

19 By: /s/ Sven T. Nylén  
20 Sven T. Nylén, Admitted Pro Hac Vice  
21 Attorneys for Bruce P. Kriegman,  
22 Liquidating Trustee  
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